



CITY OF EL PASO

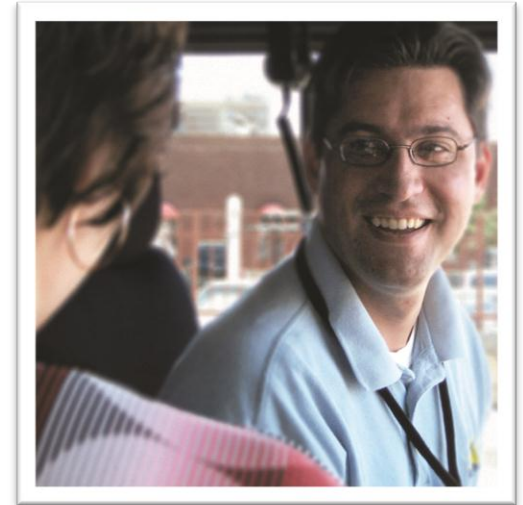
ETHICS IN CITY GOVERNMENT

for

ELECTED OFFICIALS AND OFFICERS

FEBRUARY 2012

Training Objective



To inform city employees and elected officials of their obligation to the citizens of El Paso to conduct themselves in a manner that demonstrates our commitment to honesty, integrity and ethical behavior.

Focus on Training



Although training includes legal terms and phrases, the purpose is to educate and stress the importance and seriousness of ethics in city government.

As an officer or employee of the city, your focused attention is imperative.



“Ethics” Defined

A set of principles of right or good behavior; a theory or a system of moral values; the rules or standards of a person or the members of a profession.

Developing Ethical Standards

- On what do we base our ethical standards?
- How do these standards get applied to specific situations we face?
- Viewed as window dressing by some
- Difficult to monitor compliance



What Ethics is Not

- Ethics is not the same as “emotional gut checks”
 - Some people feel bad when they do wrong, others feel good when they do wrong
- Ethics is not religion
 - Many people are not religious, but ethics applies to everyone
- Ethics is not just following the law
 - Law can deviate from what is ethical
 - Law can become ethically corrupt
- Ethics is not just following culturally accepted norms
 - “When in Rome, do as the Romans do”

State Laws Relating to Ethics

- Chapter 36, Texas Penal Code (Bribery & Corrupt Influence)
 - Extends to public servants and immediate family
 - Prohibits bribery; coercion of public servants; improper acceptance of honorariums; and the offering and acceptance of certain gifts
 - An honorarium given solely because of official status, rather than based on skill or knowledge, is unlawful.
 - No gifts can be accepted by decision makers from a person interested in a city contract

State Laws Relating to Ethics (cont'd)

- Chapter 37, Texas Penal Code
 - Prohibits tampering with governmental records
- Chapter 39, Texas Penal Code
 - prohibits abuse of office; official oppression; and misuse of official information.
 - Prohibits the misuse of government property, services and personnel
 - Prohibits an unlawful arrest, detention, search and seizure, and placement of an assessment of lien known to be unlawful

Ethics Ordinance

- All city officers and employees have a responsibility to the citizens of the city to be ethical in fulfilling the responsibilities of their positions and are expected to comply with all laws that apply to one's position.

ORDINANCE NO. 017112

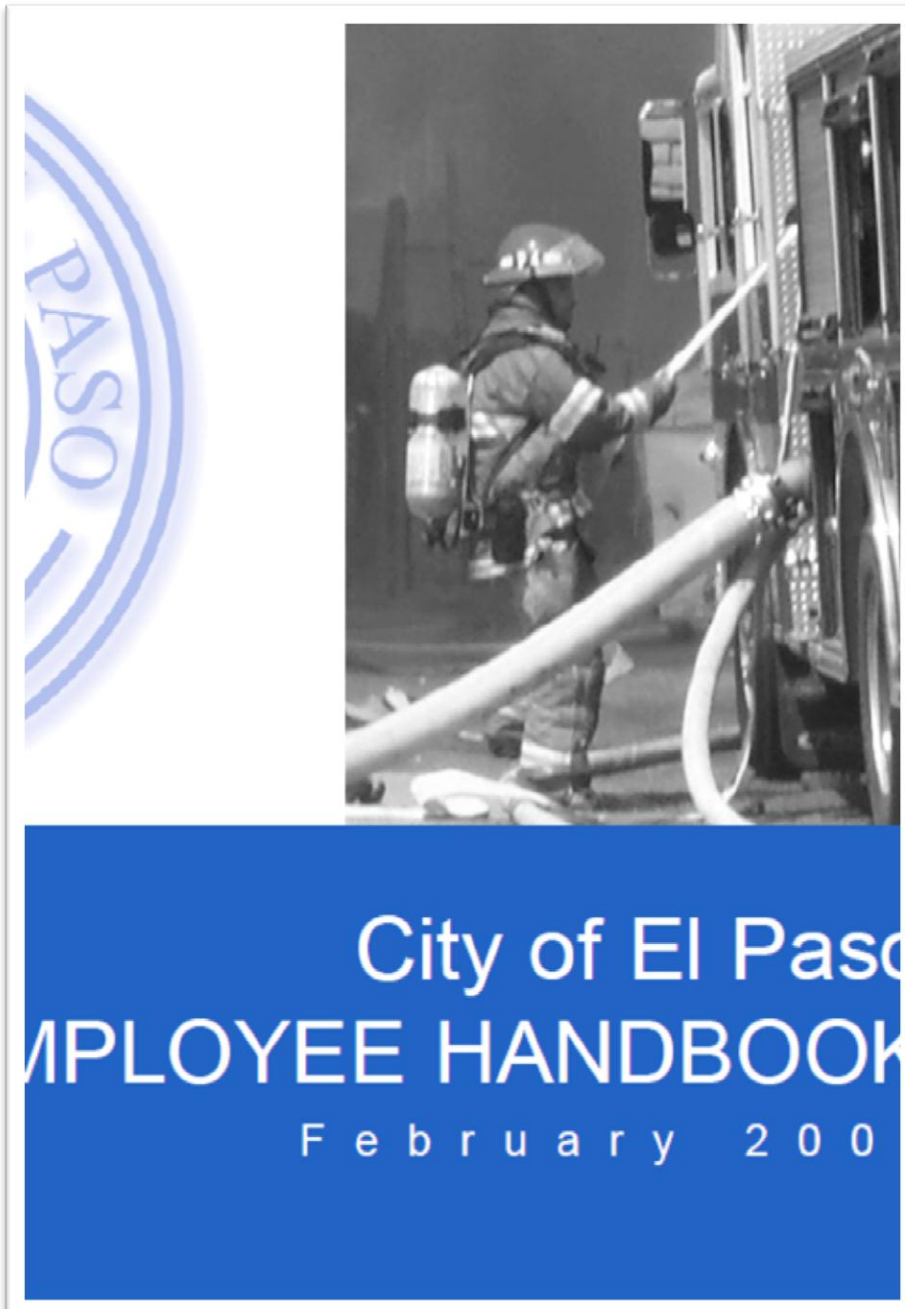
ANCE AMENDING TITLE 2 (ADMINISTRATIVE), CHAPTER 2.92 (ETHICS); TO AMEND ALTHOUGH 2.92.090 AND SECTION 2.92.150; TO REVISE AND STANDARDS OF CONDUCT, RULES AND PROCEDURES OF THE ETHICS COMMISSION, REVISE THE PROCESS FOR RECEIVING GIFTS, CREATE RESTRICTIONS FOR OFFICIALS LEAVING CITY SERVICE, REVISE THE CRIMINAL AND CREATE ADDITIONAL VIOLATIONS BEING AS PROVIDED IN SECTIONS 2.92.150 AND 2.92.151 OF THE EL PASO CITY CODE.

In 2007, the voters of the City added provisions in the City Charter and conferred duties upon the Commission.

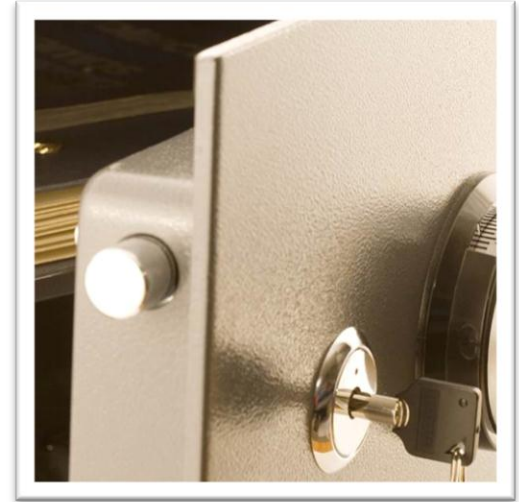
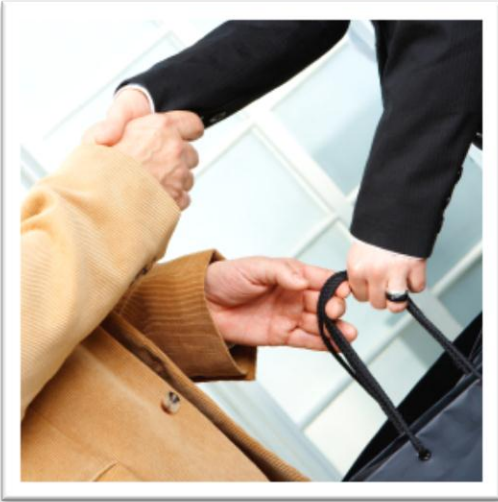
The City Council requested a complete review of the City Charter by the Council Rules Legislative Review Committee and

Administrative Procedures

- City policies, Departmental rules and procedures, Civil Service Rules are essential to a well functioning and correctly disciplined organization.
- Appropriate action will be taken whenever a violation of city policies or procedures occurs.



Unethical Conduct includes but is not limited to:



- Showing favoritism
- Seeking privileges or special treatment
- Accepting improper gifts
- Theft
- Breach of confidentiality or gossip
- Using city resources to profit personally
- Unapproved outside employment

(This is not an all inclusive list)

Ethics Ordinance, Standards of Conduct



- Applies to all city officers and employees including the Mayor, Council Representatives and all Board and Commission members, including the Public Service Board (PSB).
- Section 2.92.050 contains the required standards of conduct.

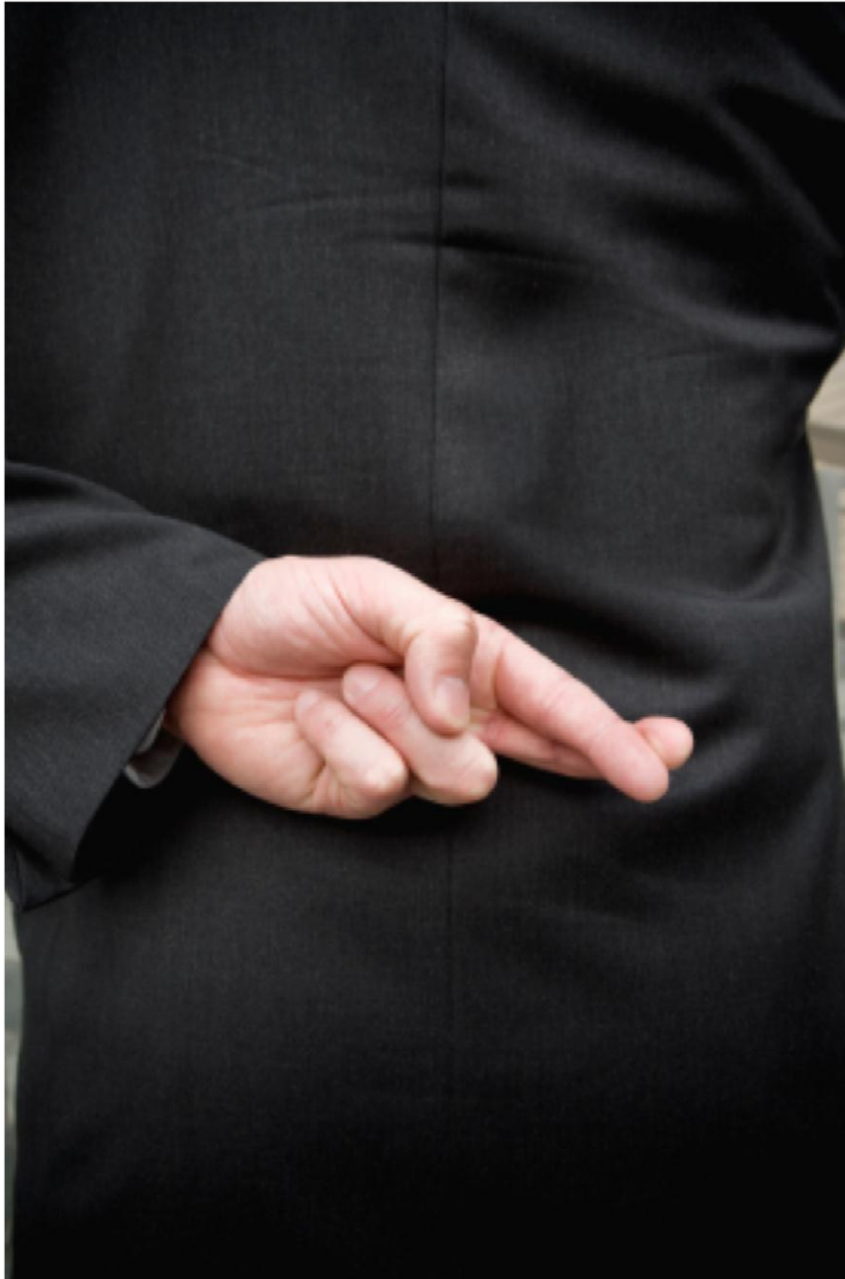
Standards of Conduct



- Prohibit unfair and other inappropriate decision-making.
- Require independent judgment in the performance of duty.
- Prohibit financial or other personal gains from the transaction of city business.
- Prohibit the misuse or improper release of confidential information.

Standards of Conduct (cont'd)

- Prohibit inappropriate use of city resources for personal benefit or the benefit of others.
- Prohibit appearance before a city board or department to represent the interests of another.
- Regulate other employment and outside activities that are incompatible.



Standards of Conduct (cont'd)

- Prohibit the transaction of business with entities in which officer has a financial interest.
- If matter under consideration involves a business entity that you are an officer, agent or member of or have a financial interest in, you must must abstain from voting and refrain from discussing the matter.
 - Includes all types of membership on the board of a nonprofit and applies even if there is no financial interest in the entity.
 - Applies to all officers and to all employees.

Standards of Conduct

Statutory Conflicts of Interest

- Chapter 171 Local Government Code:
 - Officers are prohibited from voting or participating in a decision in which you have a “substantial interest” in the involved property or business.
 - Applies if
 - 10% or more of income comes from the entity;
 - Own 10% or \$15,000 of FMV (Fair Market Value) of entity; or
 - Have \$2,500 interest in FMV of the real property.
 - Conflict extends to relatives in the 1st Degree (spouse, parents and children).

Standards of Conduct

Statutory Conflicts of Interest (cont'd)

- Chapter 171 Local Government Code:
 - Officers must file an affidavit with the City Clerk prior to the item first coming before council.
 - Officers must abstain from participation and voting.
 - Officers are the Mayor and City Council and the members of the Building & Standards Commission, City Plan Commission, Construction Board of Appeals, Historic Landmark Commission, Public Service Board, and Zoning Board of Adjustment.

Standards of Conduct

Statutory Conflicts of Interest (cont'd)

- Section 553.002, Government Code
 - If you have a legal or equitable interest in real property that is to be acquired by city by purchase or condemnation, an affidavit with the County Clerk must be filed within 10 days before the purchase or acquisition date.



Standards of Conduct

Statutory Conflicts of Interest (cont'd)

- Chapter 176, Local Government Code:
 - Conflict disclosure statement must be filed if the city or PSB is entering into a written contract with a person who has an employment or other business relationship with a member of the City Council or PSB or their family member that results in the member or his family member receiving taxable income, other than investment income, that exceeds \$2,500, or the member has received a \$250 gift from the person, within previous 12 months.
 - Must be filed with the City Clerk within seven (7) days after the member becomes aware of the situation.

City Council Discretionary Funds

- City funds that are to be used at the direction of the Representative.
- Funds must be used only for a municipal purpose
 - City Attorney's Office reviews and City Council must declare the municipal purpose for all expenditures and the City Council must approve all expenditures exceeding \$1,000.
 - Texas Constitution prohibits donation of municipal funds.
 - This includes direct funding and/or products purchased with discretionary funds, funding school programs and non-profit activities.
 - Funds must be disbursed via contract or other controls to ensure the municipal purpose exists.

Regulation of Gifts

Ethics Ordinance section 2.92.040 regulates acceptance and solicitation of gifts.

General Rule – Officers and employees shall not solicit, accept, or agree to accept for themselves or a relative:

- Any gift exceeding \$75 in value.
- Any gift that would influence improper action.
- Any gift from a registered lobbyist exceeding \$10 in value.



Regulation of Gifts

Exceptions



- Political contributions
- Awards and personalized mementos
- Personal matters: gifts and ordinary loans
- Official tokens of recognition
- Reasonable hosting in connection with certain public events
- Allowable honorariums
- Tickets to city sponsored events or events that are part of official duties, or a spouse's or child event
- Attendance to most charity events

Reporting of Gifts

- Reportable Gift Form:
 - File with City Clerk no later than 10th of month
- Report gifts:
 - Over \$10
 - Hosting with a value of \$50+
 - Awards, honorariums, recognitions of \$50+
 - Tickets or admission passes over \$10.
 - If value is more than \$75, the official purpose for attending must be stated.

Report of Reportable Gifts under Section 2.92.070B, El Paso City Code*

Name: First Last Reporting period: January 2012
Title: City Representative-District 15

Description of Gift	Name of Person or Organization who made the gift	Relationship of the donor to the reporter	Immediate or Intended Disposition of the Gift	Value or estimated value of the gift** (All gifts over \$10.00)	If Gift is over \$75.00, report date gift was turned over to the City, or whether there is an exception under Section 2.92.040B and state exception.
Candy bouquet	Office Supply Specialists	None	Accepted	\$10.00	
Poster	Community Stars	None	Accepted	\$5.00	

*To be filed by each officer, city manager, deputy city manager, department head, and executive assistants to the mayor each calendar month during which the person receives a reportable gift, no later than the 10th day of the following calendar month.
**The value of all gifts reported must be stated. Do not state "unknown" as a value. If the exact value is not known, the reporter must determine a readily-assessable value and state that as the value.

Ethics Ordinance

Campaign Finance Provisions

- Contributions of \$500 or more must be disclosed before any deliberation or vote of the City Council regarding any matter on a meeting agenda that relates to the contributor, or when the contributor appears before Council.
 - Obligation ends when the Council member files a campaign finance report that includes the contribution.
- Contributions of \$500 or more must be reported by an item for notation on the consent agenda within 30 days or the date of contribution.

Lobbying Ordinance

- Requires lobbyists to register – any person who lobbies city officials and earns salary or compensation of \$200 in a 3 month period.
- Lobbyists must file quarterly reports, abide by the “Cone of Silence” if the matter is a city procurement, and are limited on the types of gifts they can give to city officials.
- Members of city boards and commissions with independent decision-making authority are not allowed to register as a lobbyist.

ORDINANCE NO. 016448

ANCE AMENDING TITLE 2 (ADMINISTRATIVE) OF THE EL PASO CITY CODE
2.94 (REGULATION OF LOBBYING
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8.030 AND 2.94.130 OF THE EL PASO C

The City Council adopted the City's first ordinance on March 7, 2006; and

used on the implementation of this ordinance. The City Council determined that amendments to the ordinance are a continuation of the ordinance and to reduce the burden

Lobbying Ordinance

- Prohibits lobbyists from
 - Giving any gift to a city official or a member of his or her immediate family, except as permitted in accordance with Chapter 2.92 of the Ethics Code
 - Knowingly or willfully making false or misleading statements or misrepresentations of the facts to a city official.
 - Publically stating that they can control or obtain the vote or action of any city official.

Lobbying Ordinance

Economic Development

- Prohibits persons, at any time prior to the presentation of a recommendation by city staff to the City Council in an official meeting regarding an economic development project seeking incentives, from contacting any elected official or their staff regarding the project.
 - This does not include participation and communication with members of the City Council in public activities initiated by city staff in attracting new or retaining or expanding existing businesses.

Lobbying Ordinance

Procurement Activities

- Once any procurement
 - Requests for proposals (RPF),
 - Request for qualifications (RFQ), or
 - Highest Qualified (Best Value) bids

is advertised by the city, no person or registrant shall engage in any lobbying activities with city officials and employees until the notice of award is sent to the City Clerk for placement on the agenda.

- If contact is required with city employees, such contact must be done according to the solicitation documents and the city's contracting policies.



City Code

Sec. 2.44.050

The “Ticket” Code

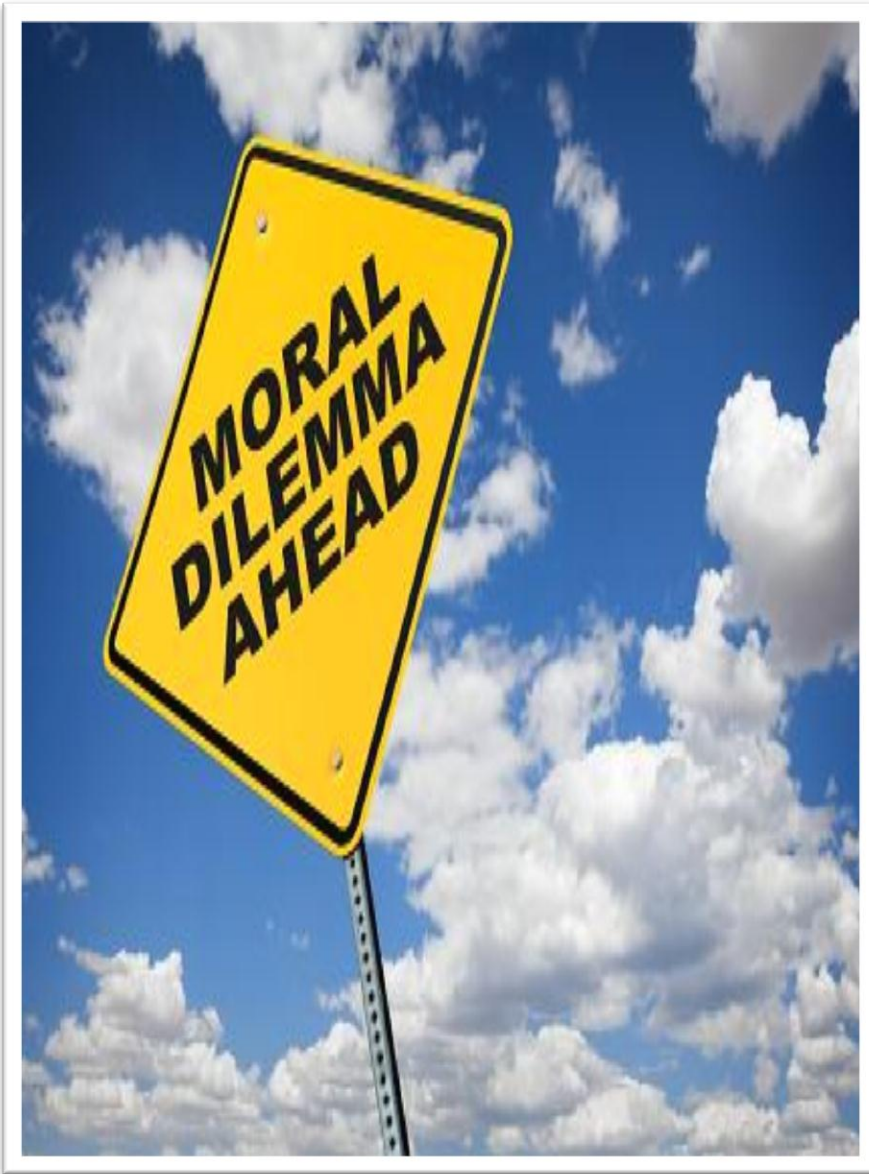
“...it is unlawful for any city official or employee, or any other person, to solicit of any police officer or other city employee or official the dismissal, cancellation, taking up or other disposition of any such ticket, citation, notice, summons, or process issued by a member of the police force...”

Social Media



- The city does not regulate employees' personal social profiles and pages.
- Today's commonsense understanding is that you should have no expectation of privacy when you post anything on the internet.
- Be cautious of the things you post, especially if they relate to city/board business that you will deliberate on with the other members of the Council/Board you sit on.

Your Inner Voice



- Do not assume
- If you ask someone and they're not sure, ask another
- Ignorance is not an acceptable excuse
 - *"I didn't know I could not do this."*
 - *"It's always been done like this."*
 - *"Why not? Others have done it before."*

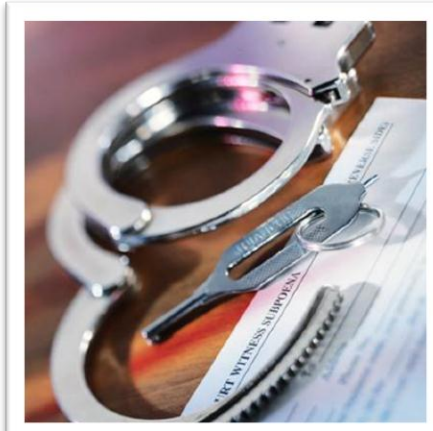
Your Inner Voice

(cont'd)

- Ask yourself,
 - *“Is this a conflict of interest?”*
 - *“Will this influence the performance of my official duties?”*
 - *“Am I gaining financially or personally from this?”*
- *Anytime when in doubt, ask a Supervisor, member of Management or Human Resources*



Misconduct May Result In



- Suspension, demotion, termination
- Criminal charges
- Negative publicity / media attention
- Jail/prison time
- Fine(s)

Reporting Mechanisms


Ethics Hotline

866-614-9688




ethicsline@elpasotexas.gov

- Hears complaints about unethical, illegal or irresponsible activity
- Calls can be made anonymously
- Investigated by Internal Audit

MAKE @ DIFFERENCE



SPEAK UP



PRESERVE OUR CULTURE OF INTEGRITY

If you ever have a concern about unethical, illegal or irresponsible activity, don't keep it to yourself. Discuss it with a manager or supervisor.

If you prefer to remain anonymous, contact The Network.

Report online:
www.reportlineweb.com/ElPaso
Call toll-free: **866-614-9688**
24 hours a day, 7 days a week

The Network is an independent reporting service. When you contact them, you do not have to give your name. A customized Web form or professional interview specialist will document your concern and relay the information to our organization for follow-up.

866-614-9688 • 24/7 • 7 days a week • 2013-2014

Continuous Conversation

- This is not the end of “ethics”.
- Ethics is always at the forefront.
- Ethics training will be provided on an ongoing basis.
- Don’t wait for the time of training to ask questions.
- Employees are encouraged to discuss any ethical matters with co-workers, supervisors, managers, Department Heads, or Human Resources.
- Do not say, “I didn’t know who to go to.”



Scenarios & Discussion

Development Assistance

A friend of yours, who is remodeling his home, comes to your office for a visit and to ask for help. He is unfamiliar with the city development process and upon arriving to the permit office, realizes there are four other customers ahead of him. He is in a hurry to obtain a permit for renovations he is making on his home and asks you to walk him to the department and ask staff to provide him with assistance immediately ahead of the others waiting.

How do you handle this situation?

While you can provide him with directions and information on how to obtain a permit, you cannot use your position or influence to request preferential or special treatment.

Cone of Silence

A vendor calls your office and requests to meet briefly with you when they're in town the following week on business with another agency. When they arrive they don't take long to mention they have read a bid posting on the city's website and are interested in bidding. They ask you for guidance on what the city is looking for and guidance on how to best position themselves before they respond to the bid.

How do you handle this situation?

This is a violation of the Cone of Silence. Upon learning of the vendor's intention to discuss an active bid, you must immediately refrain from discussing the matter and refer them to the Purchasing Department to answer their questions. Furthermore, notify the Purchasing Department of the contact made by the vendor to your office.

Keynote Speaker

You have been invited to speak at a luncheon of a local organization. After you are done with your speech, the organizer presents you with a small bouquet of flowers and an envelope that you assume is a thank you card. Upon returning to your office, you open the envelope to find a thank you card with a gift card for \$100 to a local restaurant.

What is the appropriate reaction to this situation?

Chapter 36 of the Texas Penal Code prohibits the acceptance of honorariums solely because of official status and you must return the honorarium.

A Familiar Face

You are a new member to a city board that hears matters relating to land use and development. There is an item on an upcoming agenda that impacts a property owned by your father-in-law.

How do you handle this scenario?

Chapter 171 of the Local Government Code states officers are prohibited from voting or participating in a decision in which you have a “substantial interest” in the involved property or business, and requires the filing of an affidavit stating the conflict of interest.

A Neighbor's Dilemma

Your neighbor informs you that she has an upcoming case in a municipal court for some city code violations. She states she does not have the resources to fix the violations nor the money to pay potential fines. She further states that since you have not complained to her about the violations yourself, you are obviously not impacted by them and asks you to influence the dismissal of the case.

What is the ethical response in this scenario?

Chapter 39 of the Texas Penal Code prohibits abuse of official capacity. This also violates city ordinance 2.44.050; and for the City's judges, the Code of Judicial Conduct provides additional ethical obligations.